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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,534	09/15/2005	Eberhard Gobel	23367	9685

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THE FIRM OF KARL F ROSS
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EXAMINER

YIP, WINNIE S

ART UNIT	PAPER NUMBER
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3636

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/28/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/549,534

Applicant(s)

GOBEL, EBERHARD

Examiner

Winnie Yip

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 September 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/15/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is a first office action .

Specification

1. The disclosure is objected to because of it does not contain any headings. Appropriate correction is required.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the features such as “form a spring element acting as a damping member” (claim 22), the rib has “a U-section” being engaged by “a shoe” of the brace (claims 26 and 27), and the rib has “an abutment for limiting sliding of the respective slide” (claim 28) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet”

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pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claim 15 is objected to because of the following informalities: the word : “spreadeer” (line 15) should read “spreader”. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. Claims 19-20, 26-27, 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 19-20, the term “the plastic spreaders” lacks a same terminology as previous defined because of the material of the spreader has not been previously defined and it will cause the claims being vague and indefinite as whether or not these spreaders being the same as the spreaders of as previously claimed.

Regard to claim 26, the language is confusing. It is not clear what does not mean by the phrase “each rib has at least” (line 2). And, it is not clear whether “a U-section” and the “a shoe” are belong to the rib or to the slide. Clarification is required.

In claim 29, the term “its outer end” (lines 2-3) is not clear as refers to what element. And, the term “the frame” (line 4) lacks a proper antecedent basis.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-17 and 22-29, as better understood, are rejected under 35 U.S.C. 102(e) as being anticipated by Chen (US Patent No. 6,715,504).

Chen shows and teaches an umbrella comprising: a central axis-defining shaft (7), an actuator (A) movable axially along the shaft, a frame including a plurality of ribs (8) having inner ends being pivotally secured to the shaft and outer ends being movable between closed and opened positions, a plurality of spreaders (3) each having an outer end being pivotally mounted on one of the ribs by a connector (31) and an inner end being pivotally mounted on the actuator respectively, a plurality of slides (B) each shiftable along one of the ribs adjacent the outer end of the rib, a plurality of braces (32) each being inherently distributed angularly and having ends being pivotally connected between the respective spreader and the slide, a flexible canopy spanned over the ribs, wherein a length of each rib (8) between its outer end and its pivotal connection with the outer end of the respective spreader is at least equal to a length of the respective brace plus a length of the respective spreader between its pivotal connection with the respective rib and the with the respective brace, wherein in the open position the canopy and the ribs form a spring element that resist inversion of the umbrella, and wherein the slide (B) includes a U-shaped section (b1) and a shoe (b2) being enclosed to form a tube to engage around the respective rib and shiftable along the respective brace (32), the shoe (b2) forms a pivot for

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connecting the outer end of the respective space, and each rib (8) further include an abutment (21) mounted on the respective rib for limiting sliding of the respective slide toward the respective rib inner end such that the outer end of the brace causes the rib being curved so as to prestress the frame when open in a direction resisting inversion of the canopy.

7. Claims 1-18 and 21-25, as better understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Lin et al (US Patent No. 6,186,157).

Lin et al. show and teach an umbrella comprising: a central axis-defining shaft (1), an actuator (12) movable axially along the shaft, a frame including a plurality of ribs (2) having inner ends (211) being pivotally secured to a notch (11) on the top of the shaft and outer ends (232) extending radially from the shaft and being movable between closed and opened positions, a plurality of spreaders (22) each having an outer end (222) being pivotally mounted on one of the ribs and an inner end (221) being pivotally mounted on the actuator (12) respectively, a plurality of slides (43) each shiftable along one of the ribs adjacent the outer end of the rib, a plurality of braces (3, 4) each being inherently distributed angularly and having ends (323, 42) being pivotally connected between the respective spreader and the slide, and a flexible canopy (C) spanned over the ribs, a spring (15) acting as a damping member for biasing the canopy and frame to an open position and resisting the inversion of the canopy and the frame, wherein a length of each rib (2) between its outer end and its pivotal connection with the outer end of the respective spreader is at least equal to a length of the respective brace (4) plus a length of the respective spreader (22) between its pivotal connection with the respective rib and the with the respective brace, wherein in the open position the canopy and the ribs form a spring element that

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resist inversion of the umbrella, and wherein the slide (43) includes a tube to engage around the respective rib and having a shoe to connect with the outer end of the brace such that the outer end of the brace causes the rib being curved so as to prestress the frame when open in a direction resisting inversion of the canopy, and the ribs, the spreaders, and the brace may be made from elastic material such as fiber glass reinforced plastic (see col. 3, lines 1-12) as claimed.

Claim Rejections - 35 USC § 103

8. Claims 18- 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen '504 as applied to claim 15 above, and further in view of Lin et al. '157.

While Chen does not explicitly disclose the frame of the umbrella such as the ribs, the spreaders, and ribs being made of "plastic" and with specific diameter as claimed, Line et al. teach an umbrella having a frame including ribs (2) , spreaders (22), and brace (3) being made of fiber glass reinforced plastic (see col. 3, lines 1-12) or any other suitable material having proper elasticity and toughness. Therefore, it would have been obvious design choice for one of ordinary skill in the art at the time the invention was made to form the frame of the umbrella as taught by Line et al. to allow its shape to be made inexpensively and to achieve the elastic properties of the frame such the frame can resist the inversion of the canopy.

In addition, regard to claims 19-20, although Chen and Line et al. do not explicitly define the rib, the spreader, and brace having specific diameter, since the applicant has not disclosed that the specific diameter of the frame of the umbrella solves any stated problem or is for any particular purpose, it would have been held to be within the general skill of a worker in the art to select the umbrella having frame elements such ribs, spreaders and braces being formed

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with suitable diameters to accommodate the size of the umbrella in various applications on the basis of its suitability in use as a matter of obvious design choice. And, it appears that the claimed umbrella would perform equally well being made of a plastic with specific diameter as claimed and such modification would not otherwise affect function of the device which relies on its structure and not its particular material and diameter for its function.

Citations

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Okuda '380, Weber '515, Todorovic '055, Crandall '317, Weber '988, Lin et al. '712, Hsieh (US Application Publication No. 2002/0157695), Hsieh '081, Wu '439, and Qureshi (GB 2,359,745) teach various umbrellas frame comprising braces being respectively connected between the spreaders and the ribs as similar to the claimed invention.

Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 571-272-6870. The examiner can normally be reached on M-F (9:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Winnie Yip
Primary Examiner
Art Unit 3636

wsy
February 20, 2007